

John Sawulski d/b/a Midwest Mechanical Systems, a sole proprietorship, and Midwest Systems Contracting, Inc., a single employer and alter egos and Sprinkler Fitters Local 704, United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, AFL-CIO. Cases 7-CA-28974(1) and 7-CA-28974(2)

July 31, 1992

DECISION AND ORDER

**BY CHAIRMAN STEPHENS AND MEMBERS
DEVANEY AND RAUDABAUGH**

On August 31, 1989, the National Labor Relations Board issued a Decision and Order,¹ *inter alia*, ordering John Sawulski d/b/a Midwest Mechanical Systems, a sole proprietorship, and Midwest Mechanical Systems Contracting, Inc., a single employer, to make whole certain of its unit employees for loss of earnings and other benefits resulting from their discharges in violation of the National Labor Relations Act.

A controversy having arisen over the amount of backpay due discriminatees, on March 12, 1992, the Acting Regional Director for Region 7 issued a compliance specification and notice of hearing alleging the amount due under the Board's Order, and notifying the Respondent that it should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification, the Respondent has failed to file an answer.

By letter dated April 8, 1992, the Regional attorney advised the Respondent that no answer to the compliance specification had been received and that unless an appropriate answer was filed by April 22, 1992, a Motion for Default Judgment would be sought. The Respondent filed no answer.

On June 15, 1992, the General Counsel filed with the Board Motions to Transfer Case to the Board and for Default Judgment with exhibits attached. On July 1, 1992, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent again filed no response. The allegations in the motion and in the compliance specification are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on the Motion for Default Judgment

Section 102.56(a) of the Board's Rules and Regulations provides that the Respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) of the Board's Rules and Regulations states:

If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the Motion for Default Judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and grant the General Counsel's Motion for Default Judgment. Accordingly, we conclude that the net backpay due the discriminatees is as stated in the compliance specification and we will order payment by the Respondent to the discriminatees.

ORDER

The National Labor Relations Board orders that the Respondent, John Sawulski d/b/a Midwest Mechanical Systems, a sole proprietorship, Midwest Mechanical Systems Contracting, Inc., a single employer and alter egos, Farmington Hills, Michigan, its officers, agents, successors, and assigns, shall make whole the individuals named below, by paying them the backpay amounts listed below, with interest to be computed in the manner prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), minus tax withholdings required by Federal and state laws and by payment to the appropriate benefit funds the totals listed below:

¹ 296 NLRB No. 60 (1989).

	<i>Backpay</i>	<i>H & W</i>	<i>Pension</i>	<i>Totals</i>
Larry Richardson	\$11,522.04	\$2,083.50	\$1,368.05	\$14,973.59
Michael Southall	64,028.08	8,225.10	5,802.10	78,055.28